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Subject: Bayonne: See DEP Press Release on Brownfield Initiative - 11/25

Dick,

When you speak with Bruce Venner about Bayonne Barrel & Drum and whether DEP can concur on the Action Memo as our decision document for BBD (as opposed to going the MOA route), it may be useful to mention this recently announced DEP policy (see below). According to this announcement, DEP will grant an NFA based on soil cleanup only where certain "brownfields" are concerned, even though the groundwater may be contaminated!

NJ DEPT. OF ENVIRONMENTAL PROTECTION

IMMEDIATE RELEASE

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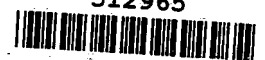
**DEP's New Brownfield Policy Moves
McGreevey's Smart Growth Plans Forward**

**Adds Incentives to Redevelopment
Efforts, Area-wide Pilot Projects Planned
in Three Cities**

(02/127) TRENTON -- New Jersey
Department of Environmental Protection
(DEP) Commissioner Bradley Campbell
today announced a new brownfield policy
to bolster redevelopment of contaminated
sites in New Jersey, accelerating the
process and making it more efficient and
predictable. DEP also announced the
creation of a new Office of Brownfield
Reuse that will implement and serve as
the focal point for the department's new
brownfield programs.

"A strong brownfield reuse program is a
vital component of Governor McGreevey's
smart growth efforts to stem the tide of
sprawl, channel new development to
cities and towns and create a broader
range of choices and more livable
communities for businesses and families
in New Jersey," said Campbell. "New
Jersey is plagued with thousands of
sites that are or may be contaminated
and serve as a drain on the economy and
quality of life in our urban centers.

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Our new brownfield programs will help better coordinate and accelerate the work of state, municipal, business and community partners who want to clean up and return of these properties to productive use."

DEP's new brownfield policy is focused on reducing uncertainties and inefficiencies in existing site remediation regulations, broadening the scope of potential re-uses for brownfield sites and working with communities to support areawide planning and redevelopment in cities that have multiple brownfield sites.

DEP has selected the cities of Trenton, Elizabeth and Camden to pilot this comprehensive approach to revitalize entire neighborhoods through partnerships among local communities, local and state officials and private parties. The initial pilot projects will focus on Trenton's Monument neighborhood, Camden's Cramer Hill and North Camden neighborhoods and Elizabeth's E-port neighborhood.

"Partnering with DEP under its new areawide program will bring much needed housing, commercial and open space development to Trenton's Monument neighborhood," said Trenton Mayor Douglas Palmer. "The new Marriott at Lafayette Yard is a prime example of a brownfield success for our city."

The following are additional reforms and programs included in the DEP brownfield policy:

Liability Reform: DEP will not assert liability for damages or compensatory restoration against non-liable brownfield developers at sites at which there is historical natural resource injury.

No Further Action Letters: DEP will issue No Further Action (NFA) letters for soils when soil cleanup at a brownfield property is complete, but groundwater contamination may remain. DEP will also issue NFA letters for groundwater when a Classification Exception Area has been established for a brownfield site and natural attenuation has been approved as the appropriate remedial action.

Letting Developers Get to Closing: DEP will permit non-labile brownfield developers to perform, as necessary, a well survey and potable well sampling and analysis and determine groundwater flow direction, promptly after purchasing a brownfield property, rather than requiring such developers to perform these activities prior to purchase.

Expanded Use of Market Tools: DEP will encourage the use of financial and market instruments to help manage financial uncertainties associated with complex and long-term cleanups while providing community assurance that cleanup requirements will be met. These mechanisms include allowing brownfield developers of single sites in areas affected by ubiquitous groundwater contamination to resolve their groundwater liability through establishment of a groundwater trust for DEP to use for future and comprehensive groundwater remediation efforts; ensuring the reliability of institutional and engineering controls; and, where appropriate, reducing the burden on the regulated community of maintaining these controls.

"Cleanup Star" Program: DEP will develop this program, which will reform the role of environmental consultants by allowing developers and responsible parties to contract with consultant professionals pre-qualified by DEP. These

pre-qualified consultants will work under the direction of the DEP and will help expedite remedial analysis, evaluation, and decisions. DEP will public notice the selection criteria and expected qualifications for consultant participants. DEP will also develop appropriate auditing requirements and other safeguards to ensure that public health and environmental standards are rigorously enforced, and that pre-qualified professionals who perform inadequate work are removed promptly from the pre-qualified list.

Technical Review Panels: DEP will establish a technical review panel comprising senior DEP technical staff who will expedite final cleanup decisions where remedial action has been delayed or potentially may be delayed by disagreements between brownfield developers (or other responsible parties) and DEP case managers on the best approach to meeting standards and technical requirements to protect public health and the environment.

Brownfields to Greenfields: DEP's Brownfield Reuse Office will work with the Green Acres Program, the Division of Fish and Wildlife, municipal officials, and community and environmental leaders to identify opportunities to pilot new potential reuses of brownfield sites. This effort shall focus particularly on identifying brownfield sites that may be used for residential development projects, for local and regional parks, for recreation areas, including off-road vehicle use areas, and for natural resource restoration. Where bona fide conservation groups have an interest in stewardship at sites being restored for these purposes, DEP shall develop appropriate prospective purchaser agreements to address potential liability arising from ownership. The Office of Brownfield Reuse shall identify at least two "brownfield to greenfield" pilots over the next twelve (12) months.

Zero Tolerance for "Warehousing": Where industrial owners of contaminated brownfield sites have chosen to "warehouse" the brownfield properties by leaving them abandoned and avoiding or delaying remediation, DEP will assist impacted communities to ensure that a beneficial reuse occurs. Where appropriate, DEP will use its enforcement authorities to require remediation. Where a municipality acquires a warehoused property through condemnation, DEP will partner with the municipality by allowing the local government to take the lead in cleaning up the site, by providing appropriate assurances concerning the scope of liability, and by ensuring that responsible parties pay for the cost of remediation.

Commissioner Campbell made the announcement today at the Marriott at Lafayette Yard Hotel and Conference Center, a brownfield project selected for a national 2002 Phoenix Award recognizing excellence in community redevelopment at a brownfield site. Joining Commissioner Campbell at today's event were city of Trenton Mayor Douglas Palmer, city of Elizabeth Mayor Chris Bollwage, Department of Community Affairs Commissioner Susan Bass-Levin and several leaders of New Jersey's business and development, environmental and local communities.

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